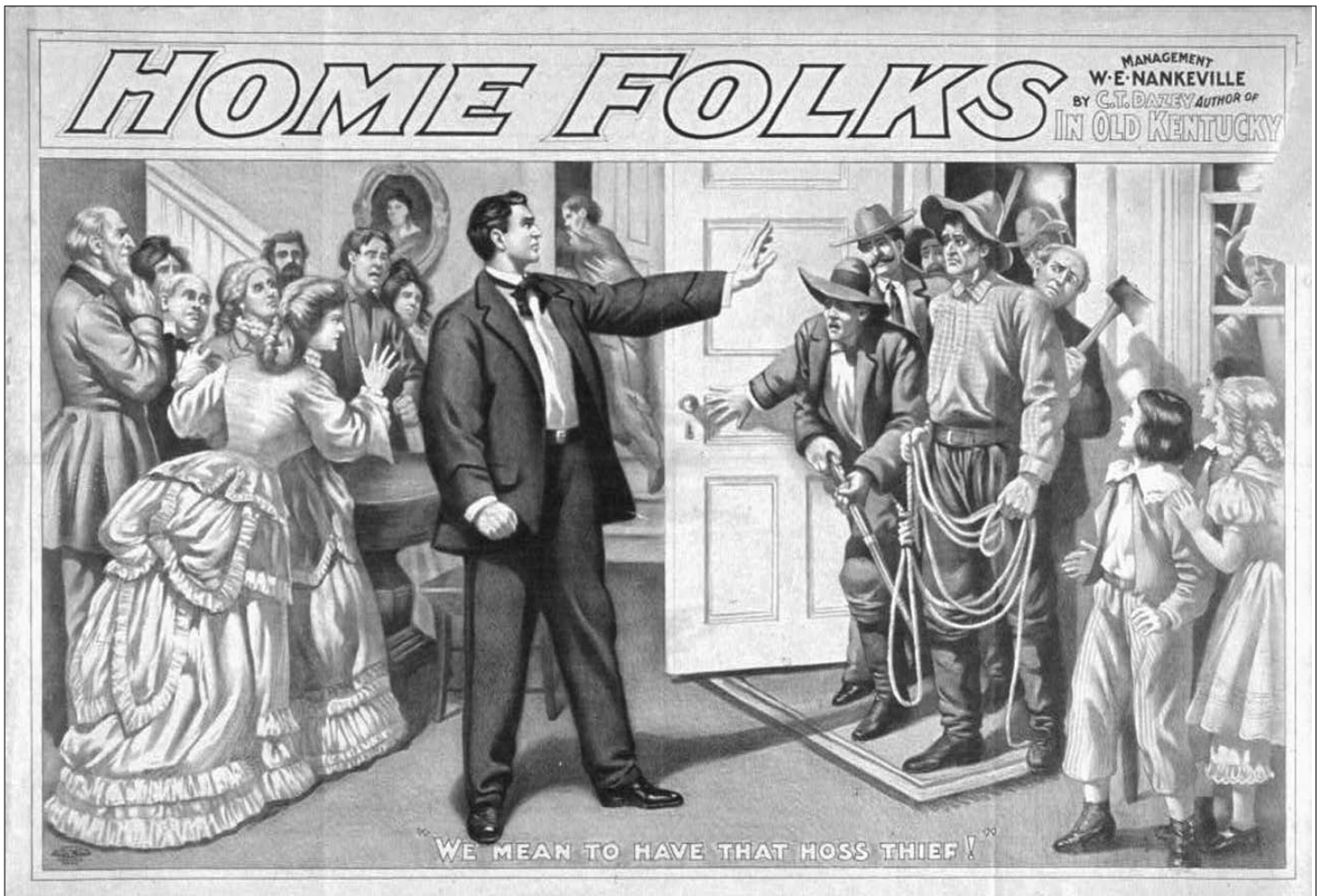


UNITED WE STAND



A theatrical poster depicts local vigilance. Poster courtesy of the Library of Congress, Prints & Photographs Division, Washington, D.C.

Law and Order on the Southeastern Kansas Frontier, 1866–1870

by John N. Mack

It was one story too many for Henry Talcot and Nelson F. Acers, editors of the fledgling *Neosho Valley Register*. The news had just filtered into their office of another assault against a farmer's wife on a lonely homestead in Coffey County. The good news was that this time the woman had managed to escape, but her husband, who had come running in from the fields, had not apprehended the assailant. The culprit was still at large, perhaps roaming the countryside looking for new victims. Their frustration mounting, the editors quickly laid out the words which would appear in the next edition of their weekly newspaper: "Crime seems rife, and if the society can not be revenged under the law, decent men ought to turn out, hunt down such vile whelps of the Devil and administer summary punishment."¹ It was a bold and forthright call for action. Something had to be done; the future of newly forming communities in southeast Kansas was at stake.

Thousands of settlers poured into southeast Kansas to stake claims, build homes, and establish communities in the years following the Civil War. The majority came as single young adults or as members of small families. Unlike other regions in Kansas, few "transplant" colonies were established in the southeast. As cultural geographer James R. Shortridge has noted, rather, the settlement of southeast Kansas was characterized by "the early, pervasive, and individualistic presence of veterans from nearby North-Midland states" and "the near absence of formal or informal colonies by any Anglo-American groups."² Lacking money and political connections the men, women, and children who traveled to southeast Kansas came with few possessions and even fewer friends—as early settler C. E. Cory remembered, "We were all poor alike."³ Nonetheless, settlers came with a determination to build ordered, prosperous, and unified communities. As a founder of the new city of Jacksonville in Neosho County explained in an open letter to the readers of the *Osage Mission Journal*: "The great anxiety of our people is to build up a town in our midst where we can have school houses, churches, lyceums, in short all of the moral, social, educational and religious advantages incident to the progressive civilization of the age."⁴

To achieve their goal, early settlers channeled their hopes and desires into action by working together. Young and inexperienced, they immigrated without the established network of friends and acquaintances that age and maturity often bring. They were thus forced to rely on their fellow settlers. In the *Chetopa Advance*, editor John Horner frequently commended cooperative endeavors to his readers and encouraged them to be proactive in organizing supportive societies:

Let every Town and Township organize societies . . . hold weekly meetings, and discuss questions bearing upon the prosperity, improvement and settlement of the county. . . . The indirect influence of such meetings would also be good, in bringing people together, and establishing friendly and social feelings and relations in sparsely settled neighborhoods. Nothing retards the settlement of a neighborhood so much as the isolation of men and families, who ought to be social neighbors.

This was a theme to which Horner often returned: "The more we know of our neighbors, the better we shall love them, as a rule."⁵

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1. *Neosho Valley Register* (Iola, Kans.), August 12, 1868.

2. James R. Shortridge, *Peopling the Plains: Who Settled Where in Frontier Kansas* (Lawrence: University Press of Kansas, 1995), 49.

3. C. E. Cory, "The Osage Ceded Lands," *Kansas Historical Collections*, 1903–1904 8 (1904): 192. See also, the *Southern (Chetopa) Kansas Advance*, January 26, 1870, where the editor acknowledged that "hitherto we have been poor in pocket."

4. *Osage Mission (Kans.) Journal*, December 4, 1868.

5. *Chetopa (Kans.) Advance*, June 16, 1869, and January 27, 1869. In 1870 Horner enlarged the paper and renamed it the *Southern Kansas Advance* (January 1, 1870). Only eight years later, however, the name was changed back to the original. The editor noted, "We never liked the new name. It was too long and cumbersome" (*Chetopa Advance*, April 4, 1878).

The office of the Neosho Valley Register (pictured here in 1859), from which the editors wrote: "Crime seems rife, and if the society cannot be revenged under the law, decent men ought to turn out, hunt down such vile whelps of the Devil and administer summary punishment."



Whatever the challenge, many settlers were convinced that they could best confront it together. As historian Jean Baker has explained, nineteenth-century Americans believed "civic virtue never emerged from individual interest but rather required collective action."⁶ To editor Horner, this was the distinguishing mark of civilization: "Co-operative labor constructs railroads, builds bridges; establishes banks, and builds cities; rears churches and founds colleges; lays the electric cable along the ocean's bed and sends the fiery leviathans of commerce on missions of civilization around the globe. Individual isolation is barbarism."⁷ The editor of the *Oswego Register* agreed wholeheartedly: "A significant characteristic of this state and more especially of this country is the hearty manner in which people stand out for their friends. We attribute the success of so many undertakings to the unity of feelings among our citizens."⁸

Reliance on others is noted in many early settlers' reminiscences. F. M. Abbot—who came to Neosho County in 1867, lived in Canville Township, and

taught school in both Thayer and Chanute—remembered that although "the people were all poor in purse . . . they were helpful and accommodating to the last degree."⁹ In another letter to the *Thayer Independent News*, Abbot expanded this comment by explaining:

Although people were poor they all were good neighbors. They would share their last meal with a neighbor who was needier than they. They would loan anything they had and if anybody was sick they would make almost any sacrifice to help or assist their suffering neighbor. Their hearts were in the right place.

These pioneers loved to visit one another. They were friendly, hospitable. . . . Their visitor was sure to get the best they had.¹⁰

Undoubtedly, these memories, colored by time and tinted by nostalgia, tended to overemphasize cooperation and downplay conflict; nevertheless they give voice to a fundamental reality in the settlement of southeast Kansas. As the historian W. H. Hutchinson has noted, because early settlers confronted an uncertain future, their fundamental

6. Jean H. Baker, "From Belief into Culture: Republicanism in the Antebellum North," *American Quarterly* 37 (Autumn 1985): 543.

7. *Chetopa Advance*, April 14, 1869.

8. *Oswego (Kans.) Register*, September 16, 1870.

9. *Thayer (Kans.) Independent News*, December 12, 1913.

10. *Thayer Independent News*, December 8, 1916.

concern “was survival. . . . Each segment had a common moral code: the primordial ethic of survival.”¹¹ Living on the frontier, settlers were acutely conscious of their vulnerability and turned to each other for sustenance, support, and strength. Thus, when Francis Wall discovered that a yoke of his oxen had been stolen, he turned to his neighbors for help. After investigating the situation, they discovered that a nearby neighbor, James Moss, had been selling meat “on the side” at about the same time that Wall’s oxen had turned up “missing.” Deducing that Moss was guilty, they also decided it was time for him to leave—immediately. When Moss protested his innocence and refused to go, Wall’s neighbors insisted. They forcibly entered his residence, gathered his belongings, threw them onto his hitched wagon, and watched as he rode out of town.¹²

As this story illustrates, in seeking security through collective action, settlers were confronted by a dilemma: not everyone could be trusted. Cory remembered his own fear, “If I had a good farm and my neighbor Tom Johnson had none, he could come to my cabin and put me off, and if he could whip me or scare me the place was his. . . . Cases of this kind were frequent.”¹³ Furthermore, as settlers quickly learned, people were not always who they said they were. Sometimes the deception could be quite elaborate. The *Osage Mission Journal* reported the story of “A. D. Cunning” who was arrested and taken back to his home state of Indiana in the late summer of 1869. This arrest was of great surprise to the local residents, especially because Cunning had ingratiated himself to his neighbors by serving the community in the “capacities of lawyer, judge pro tem, preacher, Sabbath school teacher and raftsman down the great Neosho.”¹⁴

Another tale of deception was recorded in the *Neosho Valley Eagle*. The story began in Indiana in the fall of 1867 when a married tenant farmer by the last name of Brenner became involved in an adulterous relationship with a younger woman. As the news spread and community disapproval of his actions became apparent, he left his wife and he and his lover struck out for southeast Kansas where he staked a claim about three miles outside of Osage Mission. Establishing himself as a newly married

man, Brenner endeared himself to his neighbors and became an active member of the local community. However, when his wife discovered where he had gone, she decided to follow him. After she arrived in southeast Kansas, she staked a claim less than a mile away from that of her errant husband. Not content to sit quietly by and allow another woman to pass herself off as his lawful wife, Mrs. Brenner proceeded to tell anyone and everyone the true story—much to her husband’s annoyance. The *Eagle* related the conclusion of the sordid affair: “The husband, maddened, and full of revenge, is said to have poisoned the one he swore to honor and protect.”¹⁵

That this was not an isolated occurrence is seen in another story that appeared in the *Osage Mission Journal* in the spring of 1870.¹⁶ According to this report, the local constable, R. A. Davies, had failed to return after borrowing a horse-n-buggy with which to serve papers in the northeastern part of the county. It was initially believed that the newly married Davies had been killed. When no body turned up and no evidence could be found of foul play, however, an investigation was initiated. To the surprise of everyone—especially his new bride—Davies (whom the *Journal* described as “rather genteel in appearance” with “an oily tongue . . . apt to deceive the unwary”) had three other wives: “one in Rushville, Illinois who has three children by him; one in Knob Nostur, Mo., who has one child by the wretch; he has also a wife somewhere in Arkansas whom he married about two years ago and it is supposed that he has more wives in other parts of the West and South.”¹⁷

Another example can be found in the letters of the Jesuit priest, Father Paul Ponziglione. Father Ponziglione complained of an “imposter” who was traveling from house to house in the remote areas of Neosho and Labette counties claiming to be his nephew and offering to baptize children for a small fee. Fr. Ponziglione advised the duped families to have their children conditionally baptized, telling them: “I do not believe in the sincerity of that man who went about calling himself a priest and imposing on the credulity of poor simple Catholics.”¹⁸

15. *Neosho Valley Eagle*, March 30, 1869.

16. I also note the following item printed in the *Osage Mission Journal* on August 4, 1870, as evidence of the attraction Kansas held for many who were seeking to flee from obligations and responsibilities incurred elsewhere: “WANTED—Information is wanted of Loren B. Holbrook, who is thought to be in Kansas. Any information regarding his whereabouts will be thankfully received by his wife at Fort Dodge, Iowa.”

17. *Osage Mission Journal*, April 21, 1870.

18. William Whites Graves, *Life and Letters of Fathers Ponziglione, Schoenmakers and Other Early Jesuits at Osage Mission* (St. Paul, Kans.:

11. W. H. Hutchinson, “Introduction: Law, Order and Survival,” *The American West* 7 (January 1970): 4.

12. Nelson Case, *History of Labette County, Kansas: From the First Settlement to the Close of 1892* (Topeka, Kans.: Crane & Company, 1893), 49.

13. Cory, “Osage Ceded Lands,” 195.

14. *Osage Mission Journal*, August 26, 1869.

The uncertainty these kinds of experiences wrought in the hearts and minds of the settlers is clearly manifested in the following poem. Written for the *Neosho Valley Eagle*, the anonymous author advised settlers not to take people at their words, but instead to require proof of their friendship before pledging their trust.

Many to serve their selfish ends,
Warmly declare they are friends,
But soon as serving self is o'er
Behold they are your friends no more.
Others will act a part more base,
Always be friendly to your face;
You turn your back then they your name
Expose to obloquy and shame.
Apparent friendship others show,
That you may confidence bestow,
Your secrets thus they oft obtain
And use to injure your good name.
Those who of others tell you much,
My counsel is beware of such,
They bring your neighbors' faults to view,
And in absence speak the same of you.
A faithful friend I highly prize,
But mere pretence I do dispise [*sic*],
When you're disposed a friend to trust
Always be sure to prove them first.¹⁹

In many respects, the truths contained in this poem transcend geography and time. Yet in southeast Kansas in the late 1860s and early 1870s the warning was especially pertinent. Settlers were caught on the horns of a dilemma. They could not survive by themselves; yet they did not know whom they could trust.

The solution towards which these settlers moved was a variation of the old saying: "there is safety in numbers." They created cooperative clubs, committees, and other collective assemblies by which groups of law-abiding settlers could work together to discover who could and who could not be trusted in order to defend their com-

W. W. Graves, 1916), 48. The liturgy of a conditional baptism, performed when one has been previously baptized under questionable or unacceptable circumstances and with the intent of rectifying—yet not repeating—the rite, states: "If you are not yet baptized, I baptize you in the name of the Father, the Son, and the Holy Ghost."

19. *Neosho Valley Eagle*, January 23, 1869.

<p>S. CASE, Notary Public.</p>	<p>A. B. CLOSE, Insurance Agt.</p>
<p>CASE & CLOSE, Attorneys and Counselors at Law, REAL ESTATE and GENERAL FIRE, Life, and Accident Insurance Agents, OSWEGO, KANSAS. Tender Bog services to the citizens of La- bette and surrounding counties.</p>	
<p>J. B. MOORE, ATTORNEY AT LAW, AND NOTARY PUBLIC, OSWEGO, KANSAS. All business entrusted to his care will re- ceive prompt attention. Office North West corner Public Square.</p>	
<p>W. P. BISHOP, Notary Public.</p>	<p>R. W. PERRINS, County Atty.</p>
<p>BISHOP & PERRINS, ATTORNEYS AT LAW, Notary Public & Real Estate Ag'ts, Office under Masonic Hall, OSWEGO, LABETTE COUNTY, KANSAS. Will practice in all the courts of the state. All business entrusted to their care, will re- ceive prompt attention.</p>	
<p>J. H. CRICHTON, ATTORNEY AT LAW, AND REAL ESTATE AGENT, CHETOFA, LABETTE COUNTY, KANSAS.</p>	
<p>JOHN H. GINN, Attorney and Counselor at Law, NOTARY PUBLIC, Real Estate & Claim Agent, JACKSONVILLE, KANSAS. Will practice in all Courts of Labette, Neosho, Crawford and Cherokee, and in the U. S. Land office at Humboldt.</p>	
<p>ELI GILBERT, G. GARLAND, GILBERT & GARLAND, Attorneys and Counsellors at Law, HUMBOLDT, KANSAS. Will practice in all the Courts of the State. Collections made, titles examined, and tax- es paid for non-residents.</p>	
<p>J. S. WATERS, ATTORNEY AT LAW, AND NOTARY PUBLIC, MONTANA, LABETTE COUNTY, KANSAS. Any business entrusted with him will be promptly attended to.</p>	
<p>CRAUFORD & MOORE, ATTORNEYS AT LAW, NOTARY PUBLIC And General Land Agents, WESTRALIA, MONTGOMERY CO., KANSAS. Will attend to all business entrusted to them. Collections made and promptly re- mitted. Real estate bought and sold on commission. Gratuitous information given in regard to county. Correspondence solici- ted.</p>	
<p>C. H. WINNOR, Attorney and Counselor at Law, NOTARY PUBLIC AND REAL ESTATE AGENT. Office East side of Public Square, OSWEGO, KANSAS. All business entrusted to his charge will be attended to promptly. No Reference but attention to business.</p>	
<p>R. J. ELLIOTT, JUSTICE OF THE PEACE, Real Estate and Claim Agent, OSWEGO, KANSAS. COLLECTIONS MADE PROMPTLY. Bonds, Deeds and Mortgages filed up and acknowledged. Office under Masonic Hall.</p>	

As indicated by the large number of "business card advertisements" in local newspapers such as the *Oswego Register*, July 30, 1869, south-east Kansas did not lack attorneys, or at least those who called themselves such. In fact, lawyers flocked to southeast Kansas in anticipation of the looming legal battle they believed would be waged over land holdings.

munities against those intent on circumventing the law. This was a pattern repeated in many frontier communities throughout the West. As historian Richard Maxwell Brown has written, settler clubs and vigilance committees “arose as a response to a typical American problem: the absence of effective law and order in a frontier town. . . . The regular (and by regular, I mean legal) system of law enforcement frequently proved to be woefully inadequate for the needs of the settlers.” Historian Phillip S. Paludan confirmed this analysis: “Strong respect for the necessity of an ordered way of doing things tended to prevail. Settlers created their own law and enforced it.”²⁰

Early settlers recognized the phenomenon themselves. As Francis M. Dinsmore, a Union veteran who settled on a claim in East Lincoln, Neosho County, in 1865, recollected in an oral interview with newspaper editor William Whites Graves:

Our first government was the vigilant committee organized for protection and to prevent claim jumping. This committee kept records of the claims of each man, etc., and likewise served as a court of justice. It gave an offender a trial and if found guilty usually banished him. The mandates were always respected. It never used violence in enforcing equity.²¹

More succinctly, Cory summarized the situation this way: “if laws were not made for them in the regular way they would make them for themselves.”²²

In the absence of legal authorities, local clubs mediated various categories of disputes. Neosho County was established in 1864 by an act of the state legislature; Labette

20. Phillip S. Paludan, “The American Civil War Considered as a Crisis in Law and Order,” *American Historical Review* 77 (October 1972): 1022; Richard Maxwell Brown, “The History of Extralegal Violence in Support of Community Values,” in *Violence in America*, ed. Thomas Rose (New York: Random House, 1969), 88. For contrasting views on the purpose of citizen clubs, vigilance committees, and other community associations, see Benjamin Shambaugh, “Frontier Land Clubs or Claim Associations,” in *Annual Report of the American Historical Association for the Year 1900* (Washington, D.C.: N.p., 1901): 1:67–84; Allan G. Bogue, “The Iowa Claim Clubs: Symbol and Substance,” *Mississippi Valley Historical Review* 45 (September 1958): 231–253. For an overview of the scholarship related to violence in the settlement of the American West, see Robert R. Dykstra, *The Cattle Towns* (New York: Knopf, 1968); W. Eugene Hollon, *Frontier Violence: Another Look* (New York: Oxford University Press, 1974); James A. Schellenberg, *Conflict Between Communities: American County Seat Wars* (New York: Paragon House, 1987); Richard Slotkin, *Regeneration Through Violence: The Mythology of the American Frontier* (New York: Harper Perennial, 1996).

21. “Francis M. Dinsmore” interview by William Whites Graves recorded in the latter’s *History of Neosho County* (St. Paul, Kans.: Journal Press, 1949), 1:300.

22. Cory, “Osage Ceded Lands,” 195.

County was formed out of the southern portion of Neosho in 1867. In the early years, both counties had only a rudimentary system of justice. Although a full set of officers was elected, these men were not trained in any way for the exercise of their offices. As the large number of “business card advertisements” (typically found in the first column of newspapers) indicates, southeast Kansas did not lack attorneys, or at least those who called themselves such. In fact, lawyers flocked to southeast Kansas in anticipation of the looming legal battle they believed would be waged over land holdings. But most settlers were unwilling to trust their property to such men.²³ Even those who were, found it difficult to pay the fees lawyers charged.

District Courts met twice a year (in the fall and spring), but there was no set place for these meetings. Neosho County rotated the court between several locations. In October 1867 the first term was held at the store of Roe & Denison about two miles northwest of Erie. The second term, in April 1868, met in a small, one-story, building that was also used as a school. The next term, in October 1869, was held in the upper story of the Gilbert building in Erie. The court continued to meet in the Gilbert building until the spring of 1871 when it was transferred to Osage Mission. There the court met in a hall over the Blue Wing Saloon. Judge Leander Stillwell commented in his remarks on the occasion of the inauguration of the first permanent courthouse in Neosho County in 1904, “this close proximity of the seat of justice to a place where liquid refreshments could be obtained was quite a convenience to many members of the bar of that period, and possibly, in a mild way, it was appreciated by the court.”²⁴ Labette County’s District Court was established in 1867, but according to the county records did not hear any cases, which only began to be heard on a semi-annual basis in 1868. Moreover, unlike more estab-

23. The following advertisement indicates the potential role many attorneys wished to play: “Settlers upon the Osage Lands are hereby notified that the undersigned are now prepared to receive filings of settlement upon such lands to be presented at the Land Office in Humboldt by W. P. Bishop, who will attend in person and thus save the trouble and expense of each settler going to Humboldt. We will also attend at the Land Office at the time of proving and tender our services to those desiring assistance. Bishop and Perkins, Attorneys.” *Oswego Register*, July 30, 1869. T. F. Rager, an early attorney and justice of the peace, remembered that all of the lawyers were young (under the age of thirty) and inexperienced. T. F. Rager, “History of Neosho County,” in *History of Neosho and Wilson Counties*, ed. L. Wallace Duncan (Fort Scott, Kans.: Monitor Printing Co., 1902), 134, 138.

24. “Address of Judge L. Stillwell,” November 24, 1904, in Graves, *History of Neosho County*, 1:278; see also, Leander Stillwell, “Address Upon the Opening of the Neosho County Courthouse,” *Kansas Historical Collections, 1915–1918* 14 (1918): 181.



District Courts met twice a year (in the fall and spring) in southeast Kansas, but there was no set place for these meetings. Neosho County rotated the court between several locations. The Preliminary Trail of a Horse Thief: Scene in a Western Justice's Court, by John Mulvany, ca. 1876, depicts an early trial.

lished counties, neither Neosho or Labette had the funds to support public officers; most elected officials were thus compelled to maintain their own farms in addition to fulfilling their public duties. The size of the counties, the lack of adequate roads and bridges (which made rapid travel impossible during much of the year), and the "part-time" status of county officials made "official justice" difficult to find, let alone obtain. As an early local historian, Judge Nelson Case, explained, "they were so far away and the organization . . . was at the time so crude and imperfect, that little reliance could be placed by the settlers in this part of the county receiving any aid from the officers up there."²⁵

Settlers seldom had the patience to wait for the slow and (what often seemed to them) tedious wheels of justice. And, even when the settlers were willing

and able to utilize the officials of the courts, they were frequently stymied by the rudimentary nature of the process as local justices of the peace vied with each other for "business" and issued contradictory rulings. Under the heading "Treason, Strategems and Spoils," the *Neosho County Dispatch* reported the story of a court in Labette County that, in the middle of the trail and in its entirety, was "arrested and charged with the very tall crime of conspiring to resist and obstruct the execution of the sovereign laws of the land in the county of Montgomery." When the Labette judge refused to recognize the authority of his Montgomery County counterpart, "the authorities of Montgomery declared Labette County in a state of blockade" and initiated the early stages of "having the militia called out."²⁶

Confronted by these difficulties, settlers looked to local committees and clubs for help. As Austin Thomas Dicker-

25. Case, *History of Labette County*, 48.

26. *Neosho County Dispatch* (Erie), September 1, 1869.

man, the author of the constitution and bylaws of an early vigilance committee and the first county clerk of Labette County, explained:

It was the policy of the committee to give every person taken in charge a fair trial and mete out punishment according to the merits of the case. Banishment was a common penalty. It also was the policy of the committee to hang persons found guilty of grand larceny . . . There were no appeals from the verdicts of this pioneer court, and no sharp lawyers to bring up technical points. Those who know say the brand of justice they meted out, while stern, was attended by fairness and a sincere desire to promote the public good.²⁷

In southeast Kansas, extralegal associations were given various names, such as "Settlers' Clubs," "Vigilance Committees," "Soldiers' Clubs," "Claim Clubs," etc., and were scattered throughout various counties. Created as a response to the initial atmosphere of legal confusion and judicial chaos southeast Kansas presented, the geographical boundaries of these clubs were undefined and often overlapped. Some were semipermanent and lasted for several years before disbanding; others were occasional and episodic, created in response to specific crises that confronted the communities. In each case, however, the fundamental purpose remained the same: to expose pretenders, to protect the rights of law-abiding settlers, and to maintain social order. As the *Neosho County Dispatch* explained to its readers, "The protection to the property and lives of individuals is imperatively required of society."²⁸

One of the earliest of the cooperative clubs to be formed in Labette County was organized on January 5, 1867, in Labette City. Nominating Enos Reed to be secretary, the small group of neighbors meeting in Ed Mercer's home asked him to record the details of their inaugural meeting.²⁹ Living at the edge of what they considered to be civilization, in the vicinity of men they believed to be savage, subject to the vicissitudes of weather they did not understand and certainly could not control, they were intent on doing everything "decently and in order." It is striking to note how

this small group of neighbors who met on a Saturday afternoon in the dead of winter strictly adhered to the rules of parliamentary protocol.

They stipulated when meetings would be held ("the last Saturday in each month at one o'clock"), the procedure by which a special meeting could be called ("it shall be the duty of the President to call special meetings of the club whenever he may deem it necessary so to do"), and the number of settlers required to form an official meeting ("ten men shall constitute a quorum at all club meetings; any number of men less than quorum shall be considered insufficient to transact business"). They also laid out clear procedures to be used in regulating the settlement of the land adjacent to their farms: "Each member of the club shall have his or her name and the numbers of his claim recorded by the Secretary and any person not having such record with the Secretary shall not be considered a member of the Club nor be entitled to any protection from the Club."

In creating a judicial procedure for protecting the property rights of its members, the group's bylaws established a method by which claims to property ownership could be tested. At the very least, to even be considered as a possible owner, the would-be settler had to build a foundation at least fourteen feet square on the property. Within thirty days the house had to be completed—with a full roof and an entry door. Those unable to complete a house were required to show steady progress, by placing a new round of logs upon the structure at least once every seven days. But even this was not enough to establish a permanent claim—the land itself had to be put under the plow. Only settlers who registered their claim with the club and proceeded to build houses and plow fields would be recognized as owners and thus entitled to protection by their fellow settlers. The fact that the settlers' progress was reported regularly to the members of the settlers' club ensured a paper trail that would stand up against the pretensions of claim jumpers; the fact that the settlers had to consistently maintain improvements upon the property, "as often as one day a week," protected the area from the machinations of land speculators who would stake out a property, hastily throw up a "log cabin" (usually composed of a few logs leaning against each other), and then wait for the value of the land to rise before selling it at an exorbitant profit to new settlers.

Although what is meant by the term "protection" is not clearly explained in these documents, the following story illustrates the kind of security

27. A. T. Dickerman, interview by William Whites Graves, n.d., in Neosho County manuscript collection, Library and Archives Division, Kansas State Historical Society, Topeka (hereafter cited as "Neosho County manuscript collection").

28. *Neosho County Dispatch*, September 29, 1869.

29. The initial organizational bylaws were recorded in elaborate handwriting and have been preserved in the Neosho County manuscript collection.

clubs provided their members. In Neosho County in the late 1860s, a young, unmarried man by the name of Bob Campbell staked out a quarter-section claim. One winter, in need of the ready cash farmers in southeast Kansas seldom possessed, Campbell traveled to Missouri to find work and earn enough money to purchase supplies for the spring and summer. He left his small cabin locked up, with some furniture and a few cooking utensils in it, intending to return in a few months. When he returned in the early spring, however, he discovered that during his absence a man had moved into his cabin and even began to plow his fields. Instead of confronting him directly, Campbell went to his local settlers' club where he registered a complaint. Three men shortly thereafter visited the claim jumper, each with lariat ropes and guns. According to Cory, the claim jumper later revealed what happened next:

They wuz all three strangers to me, an' I don't know wher they come from ner wher they went to; but these two other fellers said I'd better get off; and I said I wouldn't do it. An' then one feller went to untyin' his lariat rope and puttin' a slip-knot into it, an' the other two fellers pulled out guns from sumers about ther close, an' they looked like mountain howitzers. I'll be damned if they didn't—to me, anyway. They didn't say nothin' more. But thet feller kept foolin' with his lariat rope and started to git off his horse. An' then, by gunny, I made up my mind I'd go. An' I went. An' you bet, I hain't ben on thet claim sence.³⁰

Living on the “frontier,” on land until recently inhabited by the Osages (a fact they were frequently reminded of by the presence of Indian peoples from the nearby Indian Territory), settlers were convinced that they were living at the edge of “civilization.” A comment, imbedded within a description of a church social, clearly illustrates the kind of psychological pressure many settlers experienced. As he described the overflowing tables of “cakes, pies, fruits, jellies, ice cream, lemonade and candies” in the *Chetopa Advance*, Horner remarked, “It occurred to me, that if I had been brought blindfolded, from my native ‘Hoosier State,’ and placed suddenly in the midst of that large, well-dressed, well-behaved and intelligent company, . . . it would have banished forever, even the very idea that this is a land of doubtful civilization, and the verge of savage dominions.”³¹ Horner’s anxiety was palpable, haunted as he

was by the “very idea” of “doubtful civilization.” The identity the settlers had constructed for themselves required consistent and continual social reinforcement. Within this context, any behavior that threatened the social peace of the “well-dressed, well-behaved and intelligent company” of settlers could not be tolerated. As the *Neosho County Dispatch* urged its readers, “Society has a right to protect itself and the property of its individuals from danger, emanate from what source it will, and when the ordinary rules of action fall short of accomplishing the desired end, extraordinary ones must be invoked.”³²

It was undoubtedly true, as the stories under consideration demonstrate, that men (and some women) of dubious past and character made their way to southeast Kansas. But—and this is where history diverges from the popular version of the “wild, wild West” myth—these people were not welcomed by the majority of settlers who had come to southeast Kansas with a deep desire for order and a commitment to work as a community to build supporting interpersonal attachments and social networks. As the *Neosho Valley Eagle* explained, “The rough pioneers so common in the early settlement of some of the western States are few here. The ‘backwoodsman’ has but little show in a country like ours.” A correspondent for the *Southern Kansas Advance* agreed: “Chetopa may be set down as a genuine border town, in everything save the loose and profligate character of citizens who usually inhabit the extreme frontier of the West and South.”³³

Historian Richard White has commented in his description of the settling of the West that “communities aspired to create order, predictability, security, mutuality, and familiarity. They promised a known, bounded world.” Paludan likewise argued that “in regions lacking controlled settlement strong respect for the necessity of an ordered way of doing things tended to prevail.”³⁴ This was the reality that the settlers struggled to create for themselves in southeast Kansas. As veterans brought their wives and children with them to take up claims, build towns, and establish communities, they were acutely conscious of their civic responsibilities. According to historian Earl Hess, “self-government was a system . . . in which the average citizen had a very

30. Cory, “Osage Ceded Lands,” 197.

31. *Chetopa Advance*, August 4, 1869.

32. *Neosho County Dispatch*, September 8, 1869.

33. *Neosho Valley Eagle*, June 13, 1868; *Southern Kansas Advance*, February 9, 1870.

34. Richard White, *“It’s Your Misfortune and None of My Own”: A History of the American West* (Norman: University of Oklahoma Press, 1991), 316; Paludan, “The American Civil War,” 1022.

Labet Creek, Neosho Co.,
Kansas, Jan. 5th 1867.

The settlers met at Ed Mercer's residence and proceeded to reorganize themselves into a club by appointing Geo. W. Fick President, John Stewart vice-President, and Enos Reed Secretary.

The following regulations and by-laws were then adopted to wit:

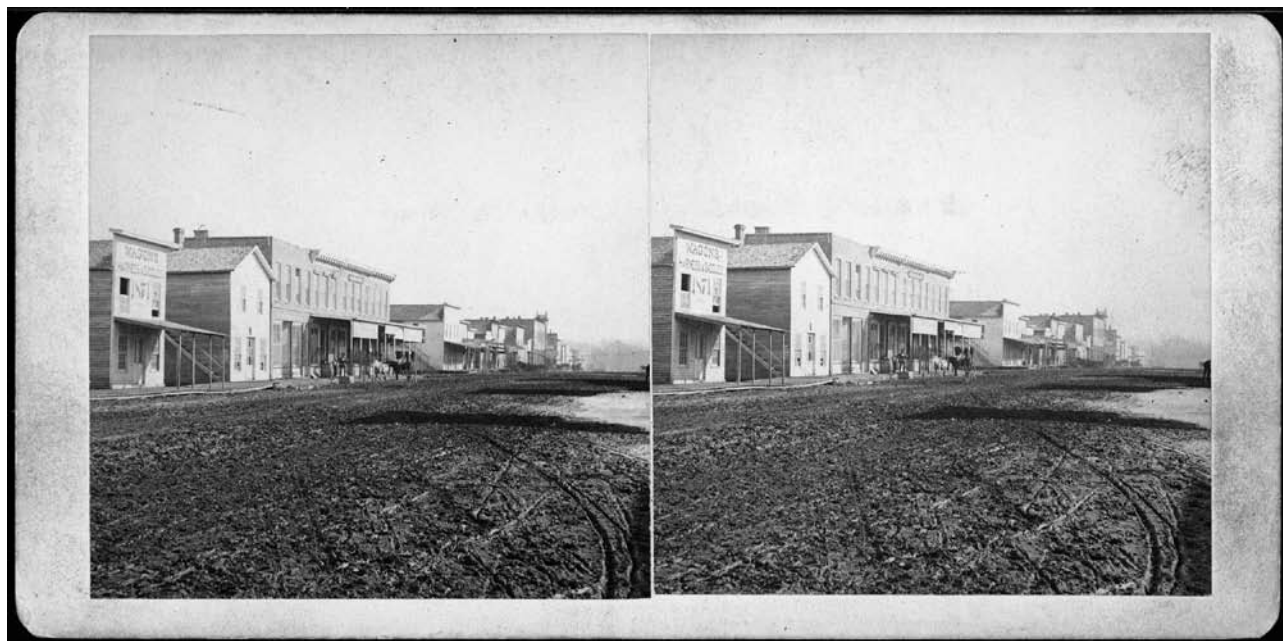
1st The last Saturday in each month at one o'clock P.M. shall be fixed as the time for congregating to hold regular club meetings.

2^d It shall be the duty of the President to call special meetings of the club whenever he may deem it necessary so to do.

3^d Ten men shall constitute a quorum at all club meetings any number of men less than a quorum shall be considered insufficient to transact business.

4th Each member of the club shall have his or her name and the members of his claim recorded by the Sec. and any person not having such record with the Sec. shall not be considered a member of the club nor

One of the earliest of the cooperative clubs to be formed in Labette County was organized on January 5, 1867, in Labette City. The initial organizational bylaws were recorded and have been preserved in the Neosho County manuscript collection, Library and Archives Division, Kansas State Historical Society, Topeka.



A correspondent for the *Southern Kansas Advance* commented of Chetopa, pictured here on a stereo card ca. 1871: "Chetopa may be set down as a genuine border town, in everything save the loose and profligate character of citizens who usually inhabit the extreme frontier of the West and South."

real and personal stake."³⁵ An interesting comment in the *Osage Mission Journal* helps to elucidate the attitudes of the settlers towards their own responsibility for upholding and enforcing the law. After describing the activities of a "mob" in "cleaning out" a house of prostitution, the editor explained that the "mob then paid their respects to a house in the eastern part of the city, warning the inmates to leave or they would be dealt with according to the law."³⁶ Quite clearly, the people involved in this "mob action" did not think that they were acting in opposition to the law—they were upholding it by enforcing it. As author William Culberson has noted, "When civil government was not sufficiently organized or established to control or punish violators of public peace, community leaders of the Old West often took matters into their own hands, and met violence with violence. Vigilantism arose from practical needs in the absence of foundations regulating social order."³⁷ The creation of settlers' clubs and vigilance committees allowed settlers in southeast Kansas to establish and maintain the institutions that made their communities function.

35. Earl J. Hess, *Liberty, Virtue, and Progress: Northerners and Their War for the Union* (New York: New York University Press, 1988), 12.

36. *Osage Mission Journal*, July 21, 1870.

37. William C. Culberson, *Vigilantism: Political History of Private Power in America* (New York: Greenwood Press, 1990), 2.

Settler society was governed by a set of (often) unwritten rules and assumptions. These assumptions governed the interactions of people within the nascent communities and were based on preconceived notions of race, gender, and class as well as fundamental convictions about the inherent differences between men, women, and children. To the early settlers, these convictions were at the heart of their notions of "civilization" and thus their defense was absolutely essential to the existence of the communities they were seeking to build. The editor of the *Kansas Democrat* explained:

Onward and upward and outward, should be the watchword of every true man. The coward only wavers and trembles and falters and turns back, such would better remain back. . . . The churches of the east, with all their pomp and pride, and paganism and good, send up no better record than does the stern pioneer, in his manly efforts to extend the boundaries of civilization, to care for himself, his wife and little ones. . . . Effort, hardships, hard work, beating back and over coming obstacles, strong men glory in. They take hold and lift themselves out of all difficulties, and become master of every situation. They aid others too by example to stronger pulls and final success.³⁸

38. (Oswego) *Kansas Democrat*, July 21, 1870.

The language is gendered and exclusively male—in southeast Kansas, according to the *Democrat*, weak and/or cowardly men were not welcome (nor, as one can reasonably assume, were strong and assertive women). In fact, the editor went on to strongly suggest that every “cowardly man” leave and return to “his wife’s people.”³⁹ The geographic boundaries of the settlers’ land were mirrored by behavioral boundaries; by failing to observe the latter the transgressor lost the privilege of inhabiting the former.

In southeast Kansas, those who were unwilling (or unable) to live by commonly accepted norms were not welcome. Anyone who violated them could no longer remain a member of the community; the penalty was either banishment or capital punishment. Justice demanded the removal of the criminal, not his rehabilitation. Those who violated the community’s trust posed a direct threat that required immediate and strong action. Residents in Tioga, Neosho County, made this abundantly evident to a man by the last name of McGregor who had moved to the city in 1870. A boisterous and violent man, he was arrested for threatening the lives of citizens and transferred to the jail in Allen County. In jail, however, he became very ill. Finding hope in the relationships he had established in Tioga, he sent a pleading letter to Samuel Wickard (described in the paper as a “prominent citizen of Tioga”) asking for money so that he could pay the fines associated with his crimes and be released from prison (which he blamed for his illness). Wickard responded positively and raised the needed money by asking for donations from other “prominent citizens.” In sending the money, however, he laid down the stipulation that McGregor was never to return, stating that “if he did he would have to suffer the consequences.”

When McGregor ignored this warning and returned to Tioga upon his release, the people were alarmed and took action. As the paper reported, “the vigilance of our citizens being on the alert watched his movements until a favor-

able opportunity offered, when he was given ten minutes to make good his exit from the town, which he did *instantly*. This McGregor is a desperate character and always goes well armed. The next breach of his contract here, he won’t be allotted ten minutes.”⁴⁰ The charity of the community, so graciously expressed in monetary donations, did not change the essential requirement that the person who transgressed the behavioral boundaries of the community must leave it. McGregor had demonstrated his unwillingness to abide by community standards both by threatening his neighbors and by not heeding the “advice” of its prominent citizens. This violation of social order (notably described in the paper as a “breach of his contract”) could not be tolerated without serious damage to the social arrangement (i.e., the “contract”) by which the community survived.

Historian Michael J. Pfeifer has used the term “rough justice” to describe the mentality of those who participated in extralegal committees in the nineteenth century. After making the observation that “historians have not noticed that extralegal violence also flourished in the Midwest into the late nineteenth century,” Pfeifer roots this violence in the particular “cultural context” of the postbellum West, which “demanded the harsh, personal, informal and communally supervised punishment of what was perceived as serious criminal behavior.” In this way, “justice was lodged in the community. It was administered face-to-face with a measure of retribution that matched the offense, and it sought to ‘preserve order.’”⁴¹ A comment imbedded in a story recounted by the *Chetopa Advance* underscores the connection in the minds of these early settlers between law, vigilantism, and justice. After describing the horrific torture and murder of a local settler, Horner commented: “Justice cries out from the lonely grave and mercy will hide her face until the mercy they gave to poor ‘Milt’ is meted out tenfold to them.”⁴²

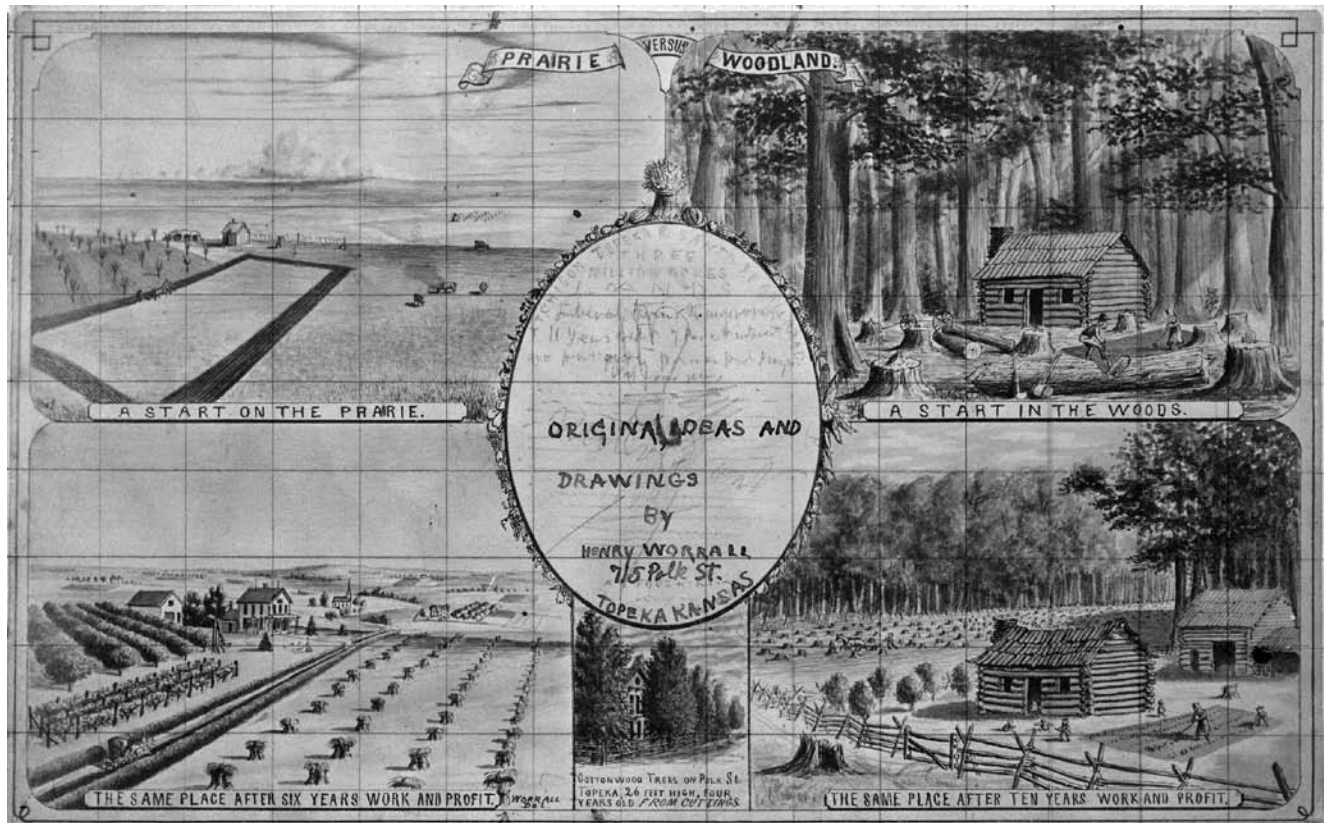
The legal scholar Herbert L. Packer described this approach to confronting criminal behavior as the “Crime Control Model” of social justice. Based on the belief that the failure to bring criminal conduct under tight control will inevitably lead to the breakdown of public order and thence to the disappearance of an important condition of human freedom, the Crime Control Model assumes that “if the laws go unenforced . . . a general disregard for legal

39. For an introduction to scholarship that takes gender seriously in analyzing the settlement of the West, see Susan Armitage and Elizabeth Jameson, eds., *The Women’s West* (Norman: University of Oklahoma Press, 1987). See also Glenda Riley, *A Place to Grow: Women in the American West* (Arlington Heights, Ill.: Harlan Davidson, Inc., 1992); Susan Armitage and Elisabeth Jameson, eds., *Writing the Range: Race, Class, and Culture in the Women’s West* (Norman: University of Oklahoma Press, 1997); Julie Roy Jeffrey, *Frontier Women: “Civilizing” the West?* (New York: Hill & Wang, 1998), revision of the original published in 1979 as *Frontier Women: The Trans-Mississippi West, 1840–1880*; Gordon Morris Bakken and Brenda Farrington, eds., *The Gendered West* (New York: Garland Pub., 2001).

40. *Tioga (Kans.) Herald*, November 4, 1871.

41. Michael J. Pfeifer, *Rough Justice: Lynching and American Society, 1874–1947* (Urbana: University of Illinois Press, 2004), 3.

42. *Chetopa Advance*, February 3, 1869.



For nineteenth-century Americans the protection of private property was an essential building block to the establishment of an ordered and structured society. The view of southeastern Kansans that their hard work on the prairie would eventually pay off—a belief depicted in this drawing by Henry Worrall, *Prairie versus Woodland*, in which six years of work on the plains produces a thriving homestead—was motivation to protect their property at all costs.

controls tends to develop. The law-abiding citizen then becomes the victim of all sorts of unjustifiable invasions of his interest. His security of person and property is sharply diminished and therefore, so is his liberty to function as a member of society." Thus, instead of emphasizing the importance of due process, "the Crime Control Model requires that primary attention be paid to the efficiency with which the criminal process operates to screen suspects, determine guilt and secure appropriate dispositions of persons convicted of crime."⁴³ From this perspective, participants in extralegal associations did not see their behavior as be-

43. Herbert L. Packer, *The Limits of the Criminal Sanction* (Stanford, Calif.: Stanford University Press, 1968), 158. Packer also notes that this attitude towards the criminal justice system shifted in the second half of the nineteenth century from concern for the safety of the community to concern for due process and the rehabilitation of the accused, especially among the elite. This cultural shift began to occur in the early 1870s among the elite of southeast Kansas. As an example of this shift, consider the following statement made by the editor of the *Erie* (Neosho County, Kans.) *Ishmaelite* in March 3, 1871. Commenting on a proposed law to limit the

ing outside or above the law; they were serving the law by punishing those who broke it. As Brown has concluded:

Americans did not feel any less public spirited when they participated in lynch law. Instead they saw vigilante participation as an act of public spirit in its own way as the election of upright officials. Americans felt that there were certain functions in preserving public order that the legal authorities would not, could not or should not be expected to perform. These functions the people themselves assumed as vigilantes.⁴⁴

authority to pronounce a sentence of capital punishment to state governors, he wrote of his wish to outlaw capital punishment altogether, arguing that "if a man has done some act which renders him dangerous to the community, and unfit to run at large, the sensible plan is to safely confine him and put him to work doing something for the benefit of the community he has wronged, and not deliberately take him out and *choke* him to death with a rope, as is the *modus operandi* of most of the of our public executions in these days."

44. Richard Maxwell Brown, *Strain of Violence: Historical Studies of American Violence and Vigilantism* (New York: Oxford University Press, 1975), 148–50.

This helps to explain why the leaders of the vigilance committees and settlers' clubs were primarily the elite of southeast Kansas. In defending the existing social order, they were protecting their own places in society and upholding their vision for the future of southeast Kansas. Thus, while many settlers' clubs in southeast Kansas were originally organized for the protection of private property, their concerns were not solely economic. In point of fact, for nineteenth-century Americans the protection of private property was an essential building block to the establishment of an ordered and structured society. Brown explained that, "The American community of the 18th and 19th centuries was primarily a property-holder's community and property was viewed as the very basis of life itself."⁴⁵ Protecting private property, therefore, was one way of ensuring the achievement of the much larger goal—"the preservation of the hierarchical prerogatives of the dominant residents of the locality" through the imposition of "communally based solutions to the dilemmas of social order ostensibly provoked by serious criminal acts."⁴⁶ It was therefore because thieves violated the established order by threatening society with disorder and chaos that, as Horner explained in the *Advance*, "The hanging of a few of the thieves would be beneficial."⁴⁷

A good example of this can be seen in the response of southeastern communities to horse thieves. After noting that "there seems to be a great mania for horse and mule stealing, for a hundred miles along the Southern border of Kansas," the *Southern Kansas Advance* advised its readers: "A vigilance committee may yet be needed." The early newspapers are replete with notices about lost horses and with warnings similar to that of the *Neosho Valley Eagle*, which cautioned its readers, "Horse thieves are plenty in this and surrounding counties. Watch your horses."⁴⁸

For settlers, horses were absolutely essential to survival. Horses were the sole means of transportation; as the Union veteran Dinsmore remembered: "a riding pony was usually kept lariatied near the house to be used in . . . times of emergency."⁴⁹ Horses also provided entertainment, as

evidenced by the following notice in the *Neosho Valley Eagle*: "A little horse race took place in our town on Saturday the 13th in which a pony from Labette County took the stakes. Jacksonville holds some fast stock, and we've money that says so. Fetch along your rusty nags."⁵⁰ More importantly, in these early communities, horses were important status symbols. Cory explained,

For instance, Uncle David Fowler on Flat Rock Creek, lived in a five room house with a roof of sawed shingles; he actually had a team of good American horses. He was a bloated plutocrat. But then he was so kind and genial that we didn't hate him. Then there was a somewhat larger class of aristocrats who had mustangs and Indian ponies. It must be admitted that they were a little inclined to be patronizing to us fellows who had to drive oxen to church.⁵¹

Horse thieves, then, menaced not only the settler's ability to improve his land, but also his standing in and engagement with the local community. The theft of a horse was a direct assault on the ordered community the settlers were seeking to establish. Judge Stillwell remembered, "People were most particular and 'tetchy' about their horses in those days."⁵² In fact, settlers feverishly worked together to recover lost horses and to dissuade those so inclined from future thievery. The *Osage Mission Journal* reported,

During the summer several horses were stolen from the good people along Big creek. And they thinking the Kansas law slow to punish horse thieves, have organized themselves into a vigilance committee. We learn that about sixty of our best citizens belong to the organization and horse thieves visiting the neighbors in the future will doubtless have the pleasure of looking up a limb. Suspicious characters are taking the hint and leaving the neighborhood.⁵³

A brief report in a later edition of the *Journal* confirms that this was not an idle threat. Under the heading "Man Hung," the paper told the story of "a man named Coleman, living on Flat Rock." As the story explained, "he has been hung by a party of citizens on the supposition that he was a horse thief."⁵⁴

45. Brown, *Strain of Violence*, 105.

46. Pfeifer, *Rough Justice*, 7.

47. *Southern Kansas Advance*, July 20, 1870.

48. *Neosho Valley Eagle*, July 18, 1868; *Southern Kansas Advance*, July 13, 1870.

49. Graves, *History of Neosho County*, 1:301.

50. *Neosho Valley Eagle*, June 13, 1868.

51. Cory, "Osage Ceded Lands," 192.

52. Stillwell, "Address," 8.

53. *Osage Mission Journal*, September 10, 1868.

54. *Osage Mission Journal*, July 1, 1869.

The Texas cattle trade posed another threat to property that the settlers' clubs confronted. In the 1860s it was common practice for ranchers to drive their cattle through Labette and Neosho counties to northern markets. Like many Kansans in this period, settlers in southeast Kansas were united in their opposition to the cattle drive. Historian Craig Miner explained, "The farmers and ranchers of the state were understandably distraught at the prospect of roving herds trampling their crops, not to mention infecting their blooded cattle with 'Spanish Fever,' a type of pneumonia carried by ticks and not affecting the long-horns."⁵⁵ Thus, as the counties began to fill with people, one of the earliest concerns was how to stop the drive. The *Osage Mission Journal* informed its readers, "We understand that meetings have been held in many parts of Southern Kansas and that the people have resolved to stop this cattle importation at all hazards." The *Journal* then proceeded to utter a warning to anyone who was thinking about driving cattle through the county: "Owners of good stock are alarmed and have taken precautions to prevent further introduction of Southern cattle into our midst. We are not at liberty to state what these precautions are, suffice it to say, that we advise all owners and drivers of Southern cattle, if they value their property or their own lives, to avoid Neosho County. The people have annually paid tribute to speculating droves and are tired of it."⁵⁶

One of the meetings mentioned in the newspaper was held on September 9, 1868, in Osage Mission. At this meeting, the settlers unanimously passed the following resolutions:

Resolved, that we the people of Neosho County, in mass meeting, assembled in order to protect ourselves and our property from the ravages of disease introduced by such cattle do enter our solemn protest against the driving of the same into or through our county.

Resolved, that we as a law abiding community are in favor of submitting to the laws enacted for our government; but when such laws are not enforced we are in favor of protecting ourselves and property by force if necessary.

Resolved, furthermore, that we hereby invite every man in Neosho County to cooperate with us in

our endeavors to protect our stock from diseases introduced by Texas and Indian cattle.⁵⁷

The structure of this set of resolutions is striking. The settlers first listed their grievances and then logically stated their own response. They were very concerned not to appear "out of control" or to behave as lawless vigilantes. The settlers wanted their actions to appear rational and orderly, they had been forced to defend their property against those who flaunted the law and they were only acting because the existing laws had not been "enforced." The wording was official, describing their actions as a "solemn protest" against the "ravages of disease." As the *Neosho County Dispatch* reported, "We learn that a number of farmers adjoining Erie, who have heretofore suffered a loss of stock by reason of the introduction of diseased cattle, propose taking such means as will prove a preventative to any further loss." The next statement clearly explained their reasoning: "They have become satisfied that the laws upon the statute book are of but little value, and that a more summary dispensation of justice is necessary."⁵⁸ In the minds of these farmers, taking extralegal action against lawbreakers was justified by the demands of justice. They were upholding the law by enforcing it themselves!

An example of this determination can be seen in a joint action that took place in the spring of 1869. A man named Dunn drove a large number of Texas cattle into Richland Township, Miami County, some eighty miles to the north of Neosho County. Convinced that the cattle were badly diseased and posed a serious threat to their own stock, local citizens took possession of the cattle and arrested the owners. When they brought Dunn and his workers before the local justice of the peace, however, the cattle traders were acquitted. After clearing them of the charge of driving diseased stock into the state, the justice asked the cowboys to leave the township. Before complying Dunn boasted that he would return with another herd of cattle at a later date. The *Neosho County Dispatch* recorded settler reaction to both the official inaction and the perceived threat: "The citizens of Richland Township have unanimously resolved that if the law will not protect them, they will take the matter in their own hands, and are deter-

55. Craig Miner, *Kansas: The History of the Sunflower State, 1854–2000* (Lawrence: University Press of Kansas, 2002), 135. See also the discussion in Robert W. Richmond, *Kansas: A Land of Contrasts* (Wheeling, Ill.: Harlan Davidson, Inc., 1989), 120–34.

56. *Osage Mission Journal*, September 3, 1868; September 10, 1868, quoting the *Burlington (Kans.) Patriot*.

57. *Osage Mission Journal*, September 17, 1868.

58. *Neosho County Dispatch*, May 27, 1870.



In these early communities, horses were important status symbols and were often included in family portraits like this one of J. M. Webster and his family, ca. 1867. Horse thieves menaced not only the settler's ability to improve his land, but also his standing in and engagement with the local community. The theft of a horse was a direct assault on the ordered community the settlers were seeking to establish.

mined that Texas stock and they diseased, shall neither be driven through the Township nor herded in it, and ask the co-operation of the citizens of other Townships in the matter. They claim that it is done for self-protection, and 'propose to fight it out on this line if it takes all summer.'"⁵⁹

In the worldview of nineteenth-century immigrants to southeast Kansas, certain crimes threatened the essential structure of society. To allow those who committed these heinous acts to go unpunished would initiate a process that would quickly destroy all that they were sacrificing so much to build. Thus, even when they were forced to create their own systems of justice because of the absence of strong official legal structures, this did not imply disrespect for the official structures that did exist or an unwillingness to be governed by law. In fact, the opposite was true. The safety of the community depended upon the swift execution of justice. If the established authorities could not (or

would not) enforce it, it became the responsibility of the law-abiding citizens to ensure that it was done.

Perhaps no story illustrates this better than the brutal tale of murder, abduction, and gang rape that occurred in the summer of 1870 in Ladore, a small town in south-central Neosho County. On May 10 a group of seven men entered the town and, after a few hours of drinking in the local saloon, proceeded to terrorize the citizens. After screaming obscenities at those they found on the streets and firing pistol shots repeatedly in the air, the drunken men advanced to the largest house, built on the outskirts of town. Forcing their way into the home, they were met by the owner, I. N. Roach. Beating him with their pistols and clubs, they left him unconscious and covered in blood on the floor of the front room. Stationing a man outside to guard against any outside interference, the remaining men savagely tortured and raped Roach's two young female servants throughout the night. As reported in the *Osage Mission Journal*, the crime was especially abhorrent given that "the two girls were sis-

59. *Neosho County Dispatch*, May 25, 1869.



The Osage Mission Journal uttered a warning to anyone who was thinking about driving cattle through the county: "Owners of good stock . . . have taken precautions to prevent further introduction of Southern cattle into our midst. . . . we advise all owners and drivers of Southern cattle, if they value their property or their own lives, to avoid Neosho County."

ters, and one of them was not twelve years old." During the night, apparently a quarrel erupted between the attackers and one was critically wounded. When his dead body was discovered the next morning, immediately "the alarm was given—an organization effected and pursuit commenced." A posse of almost three hundred men set out in pursuit and quickly caught the (now) six men. A hasty trial followed in which it was decided that five of the men involved deserved to die. Since the sixth man had remained outside the house and thus had not participated in either the beating or the rape, he was turned over to local authorities. Rope was brought and the men sentenced to death were suspended from the limbs of a large hackberry tree that grew near the town along the banks of the Labette River. It was their lifeless bodies that first greeted the sheriff and coroner as they made their way to Ladore. Upon entering the town, the coroner summoned a jury and initiated an inquest while the sheriff arrested the lone living perpetrator. The *Journal* summarized what happened next:

In the case of the man who was shot, the jury returned a verdict that the deceased came to his death by reason of a pistol shot discharged by a person unknown, and inflicted while the deceased was attempting to commit a rape. The verdict in the cases of the five men who were hung was that "they came to their death by

reason of strangulation inflicted and caused by persons to the jury unknown."

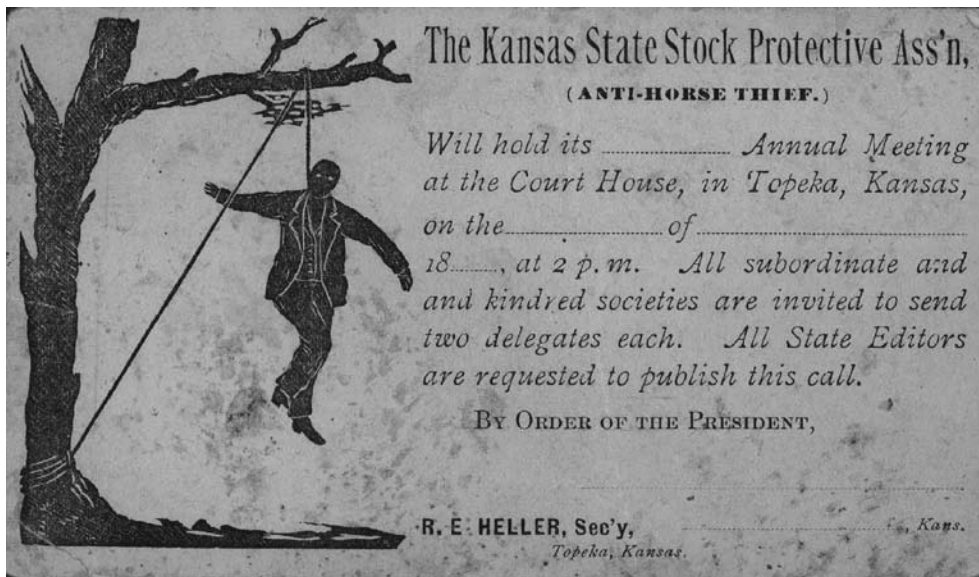
Since the men who served on the jury were residents of Ladore and eye-witnesses to the events that had transpired, it defies logic to believe that they were unaware of who was involved in the hangings. Yet, as the *Journal* informed its readers, "The most rigid questioning of witnesses by the Coroner, failed to elicit any information as to who were concerned in the lynching, although it is said that more than three hundred of the most respectable men of the community witnessed the affair." Quite clearly, therefore, the men of Ladore believed that their actions were justified. The crime had been so abhorrent that immediate action was required to restore integrity to the community whose social order had been so violated. The editor of the *Journal* was forced to concur: "we exceedingly regret that any persons should deem it necessary to take lives of human beings 'without due process of law'—Heretofore, we have borne the reputation of being a law abiding people. If the people of Ladore and vicinity have forfeited it they certainly had grave reason for their proceedings. If justification is possible, *they are justified*."⁶⁰ The editor of the *Kansas Democrat* agreed by noting: "We are opposed to mob law upon general principles; but under the circumstances which surrounded this shocking crime, the sooner an outraged community suspends the scoundrels between the heavens and the earth, the better." Horner, while editor of the *Southern Kansas Advance*, was quick to add his word of approval: "The citizens of Ladore deserve the thanks of every decent person, for hanging these vile scoundrels who by their acts have thrown the atrocities of the savage Indians into the shade."⁶¹

In conclusion, it is important to underscore that these early settlers did not believe that their actions were in conflict with the law but instead understood themselves to be cooperating with official personnel in order to enforce existing statutes, defend their loved ones, and protect their communities against injustice and disorder.⁶² They were

60. *Osage Mission Journal*, May 12, 1870.

61. *Southern Kansas Advance*, May 18, 1870; *Kansas Democrat*, May 26, 1870. The *Advance's* reference to "the atrocities of the savage Indians" is quite revealing. The settlers defined themselves as "civilized" by comparing themselves to the savage "other" (i.e., nearby indigenous peoples). The actions of the white men in assaulting the young girls therefore called into question the nature of settler society and thus could not be tolerated.

62. Another example of this attitude is revealed in the manner in which settlers responded to the disappearance of two of its prominent



Papers throughout southeastern Kansas reported lynchings of horse thieves, sometimes at the hands of members of groups such as the Anti-Horse Thief Association (AHTA). First organized by citizens in northeast Missouri to protect against Civil War raiding parties, the AHTA took their name because horses were the principle objective of this wartime thievery. The order soon spread to other states, and its scope widened to include all types of crime. In September 1895 the national AHTA met at Parsons, Labette County. This postcard from the Kansas State Stock Protective Association, a branch of the AHTA, invites "all subordinate and kindred societies" to send delegates to its annual meeting.

willing to abide by the law and to allow legal authorities to enforce it. But when the political situation was unresolved and they were uncertain that justice would prevail, settlers in southeast Kansas refused to sit by and allow lawbreakers to destroy their lives and steal their property. An interesting confirmation of this can be found in the July 27, 1870, edition of the *Southern Kansas Advance*. After reporting that the man who was not hung for the crime in Ladore had escaped from prison, Horner remarked, "His escape still further justifies the actions of the citizens in hanging his compatriots." The inability of official authorities to bring criminals to justice legitimated the actions of the law-abiding citizens in executing justice themselves.⁶³

From the vantage point of twenty-first-century social norms, these settlers were taking the law into their own hands. Their remembrances—gathered here—demonstrate

that they viewed their actions differently. The men who came to southeast Kansas brought with them fundamental assumptions about their role as guardians of social order and protectors of women and children. When forced, of necessity, to leave their wives and children alone and defenseless for long stretches of time as they labored in the fields from dawn to dusk and/or traveled to distant towns for winter work and/or supplies, they depended on the moral decency of their neighbors and incoming settlers. Any assault on their property or their families was a direct attack on the social order they were seeking to establish and neither would nor could not be tolerated. Their participation in extralegal associations would therefore continue as long as elected officials were unable or unwilling to uphold their vision of a lawfully ordered society.⁶⁴ [KH]

citizens in 1870. After noting that there "can be but little doubt that either one or both parties have fallen victims to a murderous conspiracy," the *Osage Mission Journal* applauded the people of Elston for their proactive response and urged officials to coordinate their efforts to support the community: "We understand that the citizens of Elston are doing all they can to clear up the mystery and it is proper that the representatives of law and order all over the country should use their authority in aiding them. When innocent and unoffending citizens become the victims of foul strategy at our very doors it is high time that the people woke up to self-protection" (*Osage Mission Journal*, July 21, 1870).

63. *Southern Kansas Advance*, July 27, 1870.

64. The coming of the railroad in the early 1870s challenged this vision in fundamental ways, ultimately rendering the settlers impotent to construct and control the social structure of their communities. Settler unity was also significantly challenged by the emergence of differing political agendas, changing cultural values (especially relating to gender and race), and an evolving urban-rural polarity in the 1870s. In the face of these challenges, most extralegal organizations disbanded while others were folded into political action committees (e.g., the Settlers' Party) and social clubs (e.g., the Masons) that were formed across southeast Kansas in the early 1870s.